

Fraternal Order of Police
Metropolitan Police Department Labor Committee
1524 Pennsylvania Avenue, S.E.
Washington, DC 20003
(202) 548-8300 Fax (202) 548-8306



May 22, 2012

Charles J. Willoughby
Inspector General
Government of the District of Columbia
717 14th Street, N.W.
Fifth Floor
Washington, DC 20005

RE: Request for Investigation

Dear Inspector General Willoughby:

As you may be aware, we are the leaders of the unions that represent the police officers and firefighters of the District of Columbia. Kristopher Baumann is the Chairman of the D.C. Police Union, Fraternal Order of Police (FOP). The FOP represents the approximately 3500 police officers, detectives, and sergeants of the Metropolitan Police Department. Edward Smith is the President of the Firefighters Association of the District of Columbia, International Association of Firefighters, Local Number 36 (IAFF Local 36). The IAFF Local 36 represents the approximately 1800 firefighters of the Fire and Emergency Medical Services (FEMS).

We are writing to request an investigation into the mishandling of personnel files, the improper destruction of personnel files, and the destruction of potential evidence by the District of Columbia government. In making this request, the FOP, the IAFF Local 36, and their respective members, including, but not limited to all members involved with obtaining this information, are making protected disclosures pursuant to D.C. Code section 1-615.52.

FACTS

At approximately 5:00 p.m. on Friday, May 18, 2012, FEMS Engine 25 was dispatched to the FEMS Training Academy for a report of a dumpster fire. The dispatch report indicated that one engine had been requested by Deputy Fire Chief Michael Willis to respond for three large trash cans that were on fire.

Upon arrival the responding firefighters observed there were three separate trash dumpster fires. All three dumpsters were full of burning documents. There were also numerous documents on the ground around the dumpsters, in an abandon car, and strewn throughout the training academy grounds by the wind. After FEMS personnel began putting water on the fires, they realized that at least a portion of the documents were personnel files for employees of the Metropolitan Police Department and the FEMS. The documents contained personal information such as Social Security numbers and home addresses. Some of the files were also medical files, apparently from the Police and Fire Clinic, that contained private medical information about the employees.

In addition to the burning documents, there were unburned documents scattered on the ground throughout the training facility and unburned documents in an abandoned car. Members of FEMS were able to identify their own training and medical records in the documents in the abandoned car.

The responding firefighters contacted FEMS officials and reported the matter. After extinguishing the fires and securing the scene, members of FEMS contacted FEMS Deputy Fire Chief Willis directly and again expressed their concerns about what had happened. At approximately 11:00 p.m. on Friday, May 18, 2012, Engine 25 was ordered to return to the FEMS training facility. Upon arrival they observed that the abandon car was fully involved in a fire. In an apparent effort to assuage their concerns, they were told all of the documents on the ground had been picked up and placed in the car.

We have attached copies of photographs taken at the scene. We also have attached copies of those photographs and a short video of the scene to the email version of this request that was sent to you.

PROTECTION OF PERSONNEL RECORDS

As you are aware, D.C. law provides for strict protection of personnel files and information. For example, District of Columbia Municipal Regulations, Chapter 31A provides requirements for maintaining personnel records. Each District agency is required to establish controls and safeguards for all personnel information:

3105 SAFEGUARDING INFORMATION ABOUT INDIVIDUALS

3105.1 Controls shall be established in accordance with the following:

(a) The purpose of the controls is to ensure the integrity, security, and confidentiality of personnel records, regardless of form.

(b) The Office of Personnel and each Independent Personnel Authority shall establish and ensure the

maintenance of administrative, technical, and physical controls to protect personnel records from unauthorized access, use, modification or disclosure.

(c) Persons whose official duties require access to and use of personnel records are responsible and accountable for safeguarding them and ensuring that the records shall be secured whenever they are not in use or under the direct control of authorized persons.

(d) Personnel records shall be held, processed, or stored only where facilities and conditions are adequate to prevent unauthorized access.

3105.2 Personnel records shall be stored in metal filing cabinets when the records are not in use, or in a secured room. Alternative methods may be employed if they furnish an equivalent or greater degree of security.

3105.3 Subject to the restrictions and conditions set forth in these regulations, the data subject may have access to his or her personnel records.

3105.4 Only employees whose official duties require access shall be allowed to handle and use personnel records

3105.5 To the extent feasible, entry into the personnel records storage areas shall be limited.

3105.6 Documentation of the removal of records from the storage area shall be kept to ensure--

- (a) That adequate control is maintained; and
- (b) That removed records are returned on a timely basis.

In addition to requiring that District agencies establish controls, the regulations require that employees of the District follow rules of conduct with regard to protecting personnel records and information:

3106 RULES OF CONDUCT

3106.1 These rules of conduct shall apply to all District Government employees responsible for the creation, development, maintenance, processing, use, dissemination, and safeguarding of personnel records. The Office of Personnel and each Independent Personnel Authority shall require that such employees are familiar with these and appropriate supplemental agency internal regulations.

3106.2 Office of Personnel and agency employees whose official duties involve personnel records shall be sensitive to individual rights to personal privacy and shall not disclose information from any personnel record unless disclosure is part of their official duties or required by regulation or statute (e.g., required by the D.C. Freedom of Information Act).

3106.3 Any Office of Personnel or agency employee who makes a disclosure of personnel records knowing that such disclosure is unauthorized, or who otherwise knowingly violates these regulations, shall be subject to disciplinary action and may also be subject to criminal penalties where the records are Federal records subject to the Privacy Act (5 U.S.C. 55a).

3106.4 Employees shall be prohibited from using personnel information not available to the public, gained through official duties, for commercial solicitation or sale, or for personal gain.

DESTRUCTION OF DOCUMENTS

Not only does District law address protecting the content of personnel documents and the conduct of those individuals with access to those documents, it also specifies how such documents are to be destroyed.

3105 SAFEGUARDING INFORMATION ABOUT INDIVIDUALS

3105.7 D.C. Government records shall be disposed of and destroyed in accordance with procedures issued by the D.C. Department of General Services.

3105.8 Federal records shall be disposed of in accordance with the procedures of the U.S. General Services Administration.

3105.9 In addition to following the security requirements of this section, managers of automated personnel records shall establish administrative, technical, physical, and security safeguards on data about individuals in automated records, reports, punched cards, magnetic tapes, disks, online computer storage, and other records maintained under the

authority of the Act. The safeguards shall be in writing and, as a minimum, shall be sufficient to accomplish the following:

- (a) Prevent careless, accidental, or unintentional disclosure, modification, or destruction of identifiable personal data.
- (b) Minimize the risk that skilled technicians or knowledgeable persons could improperly obtain access to, modify, or destroy identifiable personal data.
- (c) Prevent casual entry by unskilled persons who have no official reason for access to such data.
- (d) Minimize the risk of an unauthorized disclosure where use is made of identifiable personal data in testing of computer programs.
- (e) Control the flow of data into, through, and from agency computer operations.
- (f) Adequately protect identifiable data from environmental hazards and unnecessary exposure.
- (g) Ensure adequate internal audit procedures to comply with these safeguards.
- (h) Dispose of identifiable personal data in automated files in such a manner as to make the data unobtainable by unauthorized personnel. Unneeded personal data stored in reusable media such as magnetic tapes and disks shall be erased prior to release of the media for reuse.

REQUEST FOR INVESTIGATION

Obviously none of the laws or regulations were followed in this instance. Sensitive personnel, training, and medical information was placed in garbage dumpsters and lit on fire (or placed in an abandoned car and not lit on fire until the oversight was noticed by firefighters). The documents were completely unsecure and subject to being blown about by the wind, with no measures being taken to prevent unauthorized access or release.

Not only were some of these documents personnel records, they were also potentially discoverable evidence in current or potential litigation. Training records and medical records are frequently subpoenaed in lawsuits, including lawsuits where employees are suing the District for improper medical care or treatment. The District has a long, disgraceful history when it comes to failing to produce evidence, altering or destroying evidence, or simply lying about the existence of evidence in litigation (see, e.g., the Pershing Park cases). This event will certainly add to that reputation.

It is simply beyond comprehension that this is how records are being handled by the District of Columbia government. Apparently the penchant for destroying documents

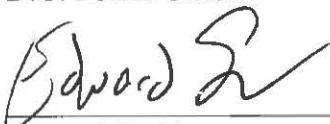
and potential evidence under Mayor Vincent Gray has become an accepted part of the District of Columbia's government operations. In this case not only did someone make a decision to burn potential evidence, but also they used District resources to transfer the documents, load the documents, and left them burning in garbage dumpsters – causing dangerous fires that required the attention FEMS personnel.

We are requesting that your office investigate this matter. In order to ensure the matter is investigated, we are also notifying certain members of the Council of the District of Columbia and requesting that they investigate the matter as well. As always, if you have any questions or need any additional information, please let us know. Thank you.

Sincerely,

A blue ink handwritten signature, appearing to read 'Kristopher Baumann', written over a horizontal line.

Kristopher Baumann
Chairman
D.C. Police Union

A black ink handwritten signature, appearing to read 'Edward Smith', written over a horizontal line.

Edward Smith
President
D.C. Firefighters Association

Attachments

ATTACHMENTS









CLASS 97-2C
EMT/B CERT

May 30 thru July 3
1997

FIRE TA

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Memo to

